

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

C.A. No. 04-12135-NG

ROBERT WADE,  
Petitioner

v.

BERNARD F. BRADY, Acting Superintendent,  
THOMAS F. REILLY, Attorney General  
Respondents

**AFFIDAVIT OF COUNSEL**

I, Janet Hetherwick Pumphrey hereby depose and state:

1. I have represented the Petitioner, Robert Wade, since 2000. Prior to my representation, Mr. Wade was represented at his trial through CPCS court-appointed counsel, Kenneth Shine, and on direct appeal through CPCS court-appointed counsel, Ruth Greenberg.
2. Mr. Wade initially paid me a retainer of \$5,000 to file a Motion for a New Trial pursuant to Mass.R.Crim.P. 30 in the Plymouth Superior Court.
3. As we worked together, he asked me if his bank could forward his bank statements directly to me as he was concerned that they would be stolen in prison and that someone might have access to his money. I have never had power of attorney or any authority whatsoever over the bank account, but I have had access to his bank records. I have occasionally forwarded a statement to him, but he prefers not to receive them in the prison.
4. I am certain that Mr. Wade did not understand that he was not entitled to court-appointed

counsel in his state court proceedings because he was not indigent at that time. He is moderately retarded with an IQ of approximately 72.

5. Mr. Wade has paid me two additional payments of \$3,000 and \$10,000. There is currently an outstanding balance of more than \$20,000 on his account. I have spent more than 225 hours on this case.
6. The balance in Mr. Wade's Rockland Trust account currently is \$705.19. I have intended to leave some funds there because I wanted for him to be able to pay for DNA testing himself if it is ordered by the Court.
7. I am requesting to be appointed pursuant to the Criminal Justice Act to represent Mr. Wade throughout the rest of his federal court proceedings.
8. Because of my long-standing relationship with Mr. Wade, my familiarity with the issues, and my very strong commitment to my client, I request that the Court appoint me, rather than the through the procedures required by the Criminal Justice Act.
9. I am on the Criminal Justice Act appellate panel in the First Circuit Court of Appeals.
10. I have forwarded to Mr. Wade a Financial Affidavit for his signature, and I will supplement this Motion with the Financial Affidavit after I receive it.
11. I am also requesting that Mr. Wade write a check to me in the amount of \$500, which I will deposit into my client account and hold for him to pay for DNA testing if and when it is ordered. Mr. Wade can then indicate on the Financial Affidavit that he is indigent.
12. If the Court for some reason cannot appoint me to continue representing Mr. Wade through the Criminal Justice Act, I request that no one else be appointed, and I will continue to represent him *pro bono*.

Signed under the pains and penalties of perjury,

A handwritten signature in black ink, appearing to be 'JP', is written above a horizontal line.

Janet Hetherwick Pumphrey

May 6, 2005